

SENATE, No. 3681

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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SYNOPSIS

Requires, by energy year 2050, all electric power sold in NJ by each electric power supplier and basic generation service provider to be from zero-carbon sources.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2019)

1 AN ACT concerning carbon emissions from electric power
2 generation and amending P.L1999, c.23.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 38 of P.L1999, c.23 (C.48:3-87) is amended to read
8 as follows:

9 38. a. The board shall require an electric power supplier or
10 basic generation service provider to disclose on a customer's bill or
11 on customer contracts or marketing materials, a uniform, common
12 set of information about the environmental characteristics of the
13 energy purchased by the customer, including, but not limited to:

14 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
15 solar, hydroelectric, wind and biomass, or a regional average
16 determined by the board;

17 (2) Its emissions, in pounds per megawatt hour, of sulfur
18 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
19 that the board may determine to pose an environmental or health
20 hazard, or an emissions default to be determined by the board; and

21 (3) Any discrete emission reduction retired pursuant to rules and
22 regulations adopted pursuant to P.L.1995, c.188.

23 b. Notwithstanding any provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
25 contrary, the board shall initiate a proceeding and shall adopt, in
26 consultation with the Department of Environmental Protection, after
27 notice and opportunity for public comment and public hearing,
28 interim standards to implement this disclosure requirement,
29 including, but not limited to:

30 (1) A methodology for disclosure of emissions based on output
31 pounds per megawatt hour;

32 (2) Benchmarks for all suppliers and basic generation service
33 providers to use in disclosing emissions that will enable consumers
34 to perform a meaningful comparison with a supplier's or basic
35 generation service provider's emission levels; and

36 (3) A uniform emissions disclosure format that is graphic in
37 nature and easily understandable by consumers. The board shall
38 periodically review the disclosure requirements to determine if
39 revisions to the environmental disclosure system as implemented
40 are necessary.

41 Such standards shall be effective as regulations immediately
42 upon filing with the Office of Administrative Law and shall be
43 effective for a period not to exceed 18 months, and may, thereafter,
44 be amended, adopted or readopted by the board in accordance with
45 the provisions of the "Administrative Procedure Act."

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. (1) The board may adopt, in consultation with the
2 Department of Environmental Protection, after notice and
3 opportunity for public comment, an emissions portfolio standard
4 applicable to all electric power suppliers and basic generation
5 service providers, upon a finding that:

6 (a) The standard is necessary as part of a plan to enable the
7 State to meet federal Clean Air Act or State ambient air quality
8 standards; and

9 (b) Actions at the regional or federal level cannot reasonably be
10 expected to achieve the compliance with the federal standards.

11 (2) By July 1, 2009, the board shall adopt, pursuant to the
12 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
13 seq.), a greenhouse gas emissions portfolio standard to mitigate
14 leakage or another regulatory mechanism to mitigate leakage
15 applicable to all electric power suppliers and basic generation
16 service providers that provide electricity to customers within the
17 State. The greenhouse gas emissions portfolio standard or any other
18 regulatory mechanism to mitigate leakage shall:

19 (a) Allow a transition period, either before or after the effective
20 date of the regulation to mitigate leakage, for a basic generation
21 service provider or electric power supplier to either meet the
22 emissions portfolio standard or other regulatory mechanism to
23 mitigate leakage, or to transfer any customer to a basic generation
24 service provider or electric power supplier that meets the emissions
25 portfolio standard or other regulatory mechanism to mitigate
26 leakage. If the transition period allowed pursuant to this
27 subparagraph occurs after the implementation of an emissions
28 portfolio standard or other regulatory mechanism to mitigate
29 leakage, the transition period shall be no longer than three years;
30 and

31 (b) Exempt the provision of basic generation service pursuant to
32 a basic generation service purchase and sale agreement effective
33 prior to the date of the regulation.

34 Unless the Attorney General or the Attorney General's designee
35 determines that a greenhouse gas emissions portfolio standard
36 would unconstitutionally burden interstate commerce or would be
37 preempted by federal law, the adoption by the board of an electric
38 energy efficiency portfolio standard pursuant to subsection g. of this
39 section, a gas energy efficiency portfolio standard pursuant to
40 subsection h. of this section, or any other enhanced energy
41 efficiency policies to mitigate leakage shall not be considered
42 sufficient to fulfill the requirement of this subsection for the
43 adoption of a greenhouse gas emissions portfolio standard or any
44 other regulatory mechanism to mitigate leakage.

45 d. Notwithstanding any provisions of the “Administrative
46 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public
2 hearing, renewable energy portfolio standards that shall require:

3 (1) that two and one-half percent of the kilowatt hours sold in
4 this State by each electric power supplier and each basic generation
5 service provider be from Class II renewable energy sources;

6 (2) beginning on January 1, 2020, that 21 percent of the
7 kilowatt hours sold in this State by each electric power supplier and
8 each basic generation service provider be from Class I renewable
9 energy sources. The board shall increase the required percentage
10 for Class I renewable energy sources so that by January 1, 2025, 35
11 percent of the kilowatt hours sold in this State by each electric
12 power supplier and each basic generation service provider shall be
13 from Class I renewable energy sources, and by January 1, 2030, 50
14 percent of the kilowatt hours sold in this State by each electric
15 power supplier and each basic generation service provider shall be
16 from Class I renewable energy sources. Notwithstanding the
17 requirements of this subsection, the board shall ensure that the cost
18 to customers of the Class I renewable energy requirement imposed
19 pursuant to this subsection shall not exceed nine percent of the total
20 paid for electricity by all customers in the State for energy year
21 2019, energy year 2020, and energy year 2021, respectively, and
22 shall not exceed seven percent of the total paid for electricity by all
23 customers in the State in any energy year thereafter. In calculating
24 the cost to customers of the Class I renewable energy requirement
25 imposed pursuant to this subsection, the board shall not include the
26 costs of the offshore wind energy certificate program established
27 pursuant to paragraph (4) of this subsection. The board shall take
28 any steps necessary to prevent the exceedance of the cap on the cost
29 to customers including, but not limited to, adjusting the Class I
30 renewable energy requirement.

31 An electric power supplier or basic generation service provider
32 may satisfy the requirements of this subsection by participating in a
33 renewable energy trading program approved by the board in
34 consultation with the Department of Environmental Protection;

35 (3) that the board establish a multi-year schedule, applicable to
36 each electric power supplier or basic generation service provider in
37 this State, beginning with the one-year period commencing on June
38 1, 2010, and continuing for each subsequent one-year period up to
39 and including, the one-year period commencing on June 1, 2033,
40 that requires the following number or percentage, as the case may
41 be, of kilowatt-hours sold in this State by each electric power
42 supplier and each basic generation service provider to be from solar
43 electric power generators connected to the distribution system in
44 this State:

45

46	EY 2011	306 Gigawatthours (Gwhrs)
47	EY 2012	442 Gwhrs
48	EY 2013	596 Gwhrs

1	EY 2014	2.050%
2	EY 2015	2.450%
3	EY 2016	2.750%
4	EY 2017	3.000%
5	EY 2018	3.200%
6	EY 2019	4.300%
7	EY 2020	4.900%
8	EY 2021	5.100%
9	EY 2022	5.100%
10	EY 2023	5.100%
11	EY 2024	4.900%
12	EY 2025	4.800%
13	EY 2026	4.500%
14	EY 2027	4.350%
15	EY 2028	3.740%
16	EY 2029	3.070%
17	EY 2030	2.210%
18	EY 2031	1.580%
19	EY 2032	1.400%
20	EY 2033	1.100%

21

22 No later than 180 days after the date of enactment of P.L.2018,
23 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations
24 to close the SREC program to new applications upon the attainment
25 of 5.1 percent of the kilowatt-hours sold in the State by each
26 electric power supplier and each basic generation provider from
27 solar electric power generators connected to the distribution system.
28 The board shall continue to consider any application filed before the
29 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board
30 shall provide for an orderly and transparent mechanism that will
31 result in the closing of the existing SREC program on a date certain
32 but no later than June 1, 2021.

33 No later than 24 months after the date of enactment of P.L.2018,
34 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
35 evaluates how to modify or replace the SREC program to encourage
36 the continued efficient and orderly development of solar renewable
37 energy generating sources throughout the State. The board shall
38 submit the written report thereon to the Governor and, pursuant to
39 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
40 board shall consult with public utilities, industry experts, regional
41 grid operators, solar power providers and financiers, and other State
42 agencies to determine whether the board can modify the SREC
43 program such that the program will:

- 44 - continually reduce, where feasible, the cost of achieving the
45 solar energy goals set forth in this subsection;
- 46 - provide an orderly transition from the SREC program to a new
47 or modified program;

1 - develop megawatt targets for grid connected and distribution
2 systems, including residential and small commercial rooftop
3 systems, community solar systems, and large scale behind the meter
4 systems, as a share of the overall solar energy requirement, which
5 targets the board may modify periodically based on the cost,
6 feasibility, or social impacts of different types of projects;

7 - establish and update market-based maximum incentive payment
8 caps periodically for each of the above categories of solar electric
9 power generation facilities;

10 - encourage and facilitate market-based cost recovery through
11 long-term contracts and energy market sales; and

12 - where cost recovery is needed for any portion of an efficient
13 solar electric power generation facility when costs are not
14 recoverable through wholesale market sales and direct payments
15 from customers, utilize competitive processes such as competitive
16 procurement and long-term contracts where possible to ensure such
17 recovery, without exceeding the maximum incentive payment cap
18 for that category of facility.

19 The board shall approve, conditionally approve, or disapprove
20 any application for designation as connected to the distribution
21 system of a solar electric power generation facility filed with the
22 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
23 al.), no more than 90 days after receipt by the board of a completed
24 application. For any such application for a project greater than 25
25 kilowatts, the board shall require the applicant to post a notice
26 escrow with the board in an amount of \$40 per kilowatt of DC
27 nameplate capacity of the facility, not to exceed \$40,000. The
28 notice escrow amount shall be reimbursed to the applicant in full
29 upon either denial of the application by the board or upon
30 commencement of commercial operation of the solar electric power
31 generation facility. The escrow amount shall be forfeited to the
32 State if the facility is designated as connected to the distribution
33 system pursuant to this subsection but does not commence
34 commercial operation within two years following the date of the
35 designation by the board.

36 For all applications for designation as connected to the
37 distribution system of a solar electric power generation facility filed
38 with the board after the date of enactment of P.L.2018, c.17
39 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

40 (a) The board shall determine an appropriate period of no less
41 than 120 days following the end of an energy year prior to which a
42 provider or supplier must demonstrate compliance for that energy
43 year with the annual renewable portfolio standard;

44 (b) No more than 24 months following the date of enactment of
45 P.L.2012, c.24, the board shall complete a proceeding to investigate
46 approaches to mitigate solar development volatility and prepare and
47 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
48 report to the Legislature, detailing its findings and

1 recommendations. As part of the proceeding, the board shall
2 evaluate other techniques used nationally and internationally;

3 (c) The solar renewable portfolio standards requirements in this
4 paragraph shall exempt those existing supply contracts which are
5 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
6 87.8 et al.) from any increase beyond the number of SRECs
7 mandated by the solar renewable energy portfolio standards
8 requirements that were in effect on the date that the providers
9 executed their existing supply contracts. This limited exemption for
10 providers' existing supply contracts shall not be construed to lower
11 the Statewide solar sourcing requirements set forth in this
12 paragraph. Such incremental requirements that would have
13 otherwise been imposed on exempt providers shall be distributed
14 over the providers not subject to the existing supply contract
15 exemption until such time as existing supply contracts expire and
16 all providers are subject to the new requirement in a manner that is
17 competitively neutral among all providers and suppliers.
18 Notwithstanding any rule or regulation to the contrary, the board
19 shall recognize these new solar purchase obligations as a change
20 required by operation of law and implement the provisions of this
21 subsection in a manner so as to prevent any subsidies between
22 suppliers and providers and to promote competition in the
23 electricity supply industry.

24 An electric power supplier or basic generation service provider
25 may satisfy the requirements of this subsection by participating in a
26 renewable energy trading program approved by the board in
27 consultation with the Department of Environmental Protection, or
28 compliance with the requirements of this subsection may be
29 demonstrated to the board by suppliers or providers through the
30 purchase of SRECs.

31 The renewable energy portfolio standards adopted by the board
32 pursuant to paragraphs (1) and (2) of this subsection shall be
33 effective as regulations immediately upon filing with the Office of
34 Administrative Law and shall be effective for a period not to exceed
35 18 months, and may, thereafter, be amended, adopted or readopted
36 by the board in accordance with the provisions of the
37 "Administrative Procedure Act."

38 The renewable energy portfolio standards adopted by the board
39 pursuant to this paragraph shall be effective as regulations
40 immediately upon filing with the Office of Administrative Law and
41 shall be effective for a period not to exceed 30 months after such
42 filing, and shall, thereafter, be amended, adopted or readopted by
43 the board in accordance with the "Administrative Procedure Act";
44 and

45 (4) within 180 days after the date of enactment of P.L.2010,
46 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
47 renewable energy certificate program to require that a percentage of
48 the kilowatt hours sold in this State by each electric power supplier

1 and each basic generation service provider be from offshore wind
2 energy in order to support at least 3,500 megawatts of generation
3 from qualified offshore wind projects.

4 The percentage established by the board pursuant to this
5 paragraph shall serve as an offset to the renewable energy portfolio
6 standard established pursuant to paragraph (2) of this subsection
7 and shall reduce the corresponding Class I renewable energy
8 requirement.

9 The percentage established by the board pursuant to this
10 paragraph shall reflect the projected OREC production of each
11 qualified offshore wind project, approved by the board pursuant to
12 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
13 commercial operation start date of the qualified offshore wind
14 project which production projection and OREC purchase
15 requirement, once approved by the board, shall not be subject to
16 reduction.

17 An electric power supplier or basic generation service provider
18 shall comply with the OREC program established pursuant to this
19 paragraph through the purchase of offshore wind renewable energy
20 certificates at a price and for the time period required by the board.
21 In the event there are insufficient offshore wind renewable energy
22 certificates available, the electric power supplier or basic generation
23 service provider shall pay an offshore wind alternative compliance
24 payment established by the board. Any offshore wind alternative
25 compliance payments collected shall be refunded directly to the
26 ratepayers by the electric public utilities.

27 The rules established by the board pursuant to this paragraph
28 shall be effective as regulations immediately upon filing with the
29 Office of Administrative Law and shall be effective for a period not
30 to exceed 18 months, and may, thereafter, be amended, adopted or
31 readopted by the board in accordance with the provisions of the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.).

34 e. Notwithstanding any provisions of the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
36 contrary, the board shall initiate a proceeding and shall adopt, after
37 notice, provision of the opportunity for comment, and public
38 hearing:

39 (1) net metering standards for electric power suppliers and basic
40 generation service providers. The standards shall require electric
41 power suppliers and basic generation service providers to offer net
42 metering at non-discriminatory rates to industrial, large
43 commercial, residential and small commercial customers, as those
44 customers are classified or defined by the board, that generate
45 electricity, on the customer's side of the meter, using a Class I
46 renewable energy source, for the net amount of electricity supplied
47 by the electric power supplier or basic generation service provider
48 over an annualized period. Systems of any sized capacity, as

1 measured in watts, are eligible for net metering. If the amount of
2 electricity generated by the customer-generator, plus any kilowatt
3 hour credits held over from the previous billing periods, exceeds the
4 electricity supplied by the electric power supplier or basic
5 generation service provider, then the electric power supplier or
6 basic generation service provider, as the case may be, shall credit
7 the customer-generator for the excess kilowatt hours until the end of
8 the annualized period at which point the customer-generator will be
9 compensated for any remaining credits or, if the customer-generator
10 chooses, credit the customer-generator on a real-time basis, at the
11 electric power supplier's or basic generation service provider's
12 avoided cost of wholesale power or the PJM electric power pool's
13 real-time locational marginal pricing rate, adjusted for losses, for
14 the respective zone in the PJM electric power pool. Alternatively,
15 the customer-generator may execute a bilateral agreement with an
16 electric power supplier or basic generation service provider for the
17 sale and purchase of the customer-generator's excess generation.
18 The customer-generator may be credited on a real-time basis, so
19 long as the customer-generator follows applicable rules prescribed
20 by the PJM electric power pool for its capacity requirements for the
21 net amount of electricity supplied by the electric power supplier or
22 basic generation service provider. The board may authorize an
23 electric power supplier or basic generation service provider to cease
24 offering net metering to customers that are not already net metered
25 whenever the total rated generating capacity owned and operated by
26 net metering customer-generators Statewide equals 5.8 percent of
27 the total annual kilowatt-hours sold in this State by each electric
28 power supplier and each basic generation service provider during
29 the prior one-year period;

30 (2) safety and power quality interconnection standards for Class
31 I renewable energy source systems used by a customer-generator
32 that shall be eligible for net metering.

33 Such standards or rules shall take into consideration the goals of
34 the New Jersey Energy Master Plan, applicable industry standards,
35 and the standards of other states and the Institute of Electrical and
36 Electronics Engineers. The board shall allow electric public
37 utilities to recover the costs of any new net meters, upgraded net
38 meters, system reinforcements or upgrades, and interconnection
39 costs through either their regulated rates or from the net metering
40 customer-generator;

41 (3) credit or other incentive rules for generators using Class I
42 renewable energy generation systems that connect to New Jersey's
43 electric public utilities' distribution system but who do not net
44 meter; and

45 (4) net metering aggregation standards to require electric public
46 utilities to provide net metering aggregation to single electric public
47 utility customers that operate a solar electric power generation
48 system installed at one of the customer's facilities or on property

1 owned by the customer, provided that any such customer is a State
2 entity, school district, county, county agency, county authority,
3 municipality, municipal agency, or municipal authority. The
4 standards shall provide that, in order to qualify for net metering
5 aggregation, the customer must operate a solar electric power
6 generation system using a net metering billing account, which
7 system is located on property owned by the customer, provided that:
8 (a) the property is not land that has been actively devoted to
9 agricultural or horticultural use and that is valued, assessed, and
10 taxed pursuant to the "Farmland Assessment Act of 1964,"
11 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
12 period prior to the effective date of P.L.2012, c.24, provided,
13 however, that the municipal planning board of a municipality in
14 which a solar electric power generation system is located may
15 waive the requirement of this subparagraph (a), (b) the system is not
16 an on-site generation facility, (c) all of the facilities of the single
17 customer combined for the purpose of net metering aggregation are
18 facilities owned or operated by the single customer and are located
19 within its territorial jurisdiction except that all of the facilities of a
20 State entity engaged in net metering aggregation shall be located
21 within five miles of one another, and (d) all of those facilities are
22 within the service territory of a single electric public utility and are
23 all served by the same basic generation service provider or by the
24 same electric power supplier. The standards shall provide that in
25 order to qualify for net metering aggregation, the customer's solar
26 electric power generation system shall be sized so that its annual
27 generation does not exceed the combined metered annual energy
28 usage of the qualified customer facilities, and the qualified
29 customer facilities shall all be in the same customer rate class under
30 the applicable electric public utility tariff. For the customer's
31 facility or property on which the solar electric generation system is
32 installed, the electricity generated from the customer's solar electric
33 generation system shall be accounted for pursuant to the provisions
34 of paragraph (1) of this subsection to provide that the electricity
35 generated in excess of the electricity supplied by the electric power
36 supplier or the basic generation service provider, as the case may
37 be, for the customer's facility on which the solar electric generation
38 system is installed, over the annualized period, is credited at the
39 electric power supplier's or the basic generation service provider's
40 avoided cost of wholesale power or the PJM electric power pool
41 real-time locational marginal pricing rate. All electricity used by
42 the customer's qualified facilities, with the exception of the facility
43 or property on which the solar electric power generation system is
44 installed, shall be billed at the full retail rate pursuant to the electric
45 public utility tariff applicable to the customer class of the customer
46 using the electricity. A customer may contract with a third party to
47 operate a solar electric power generation system, for the purpose of
48 net metering aggregation. Any contractual relationship entered into

1 for operation of a solar electric power generation system related to
2 net metering aggregation shall include contractual protections that
3 provide for adequate performance and provision for construction
4 and operation for the term of the contract, including any appropriate
5 bonding or escrow requirements. Any incremental cost to an
6 electric public utility for net metering aggregation shall be fully and
7 timely recovered in a manner to be determined by the board. The
8 board shall adopt net metering aggregation standards within 270
9 days after the effective date of P.L.2012, c.24.

10 Such rules shall require the board or its designee to issue a credit
11 or other incentive to those generators that do not use a net meter but
12 otherwise generate electricity derived from a Class I renewable
13 energy source and to issue an enhanced credit or other incentive,
14 including, but not limited to, a solar renewable energy credit, to
15 those generators that generate electricity derived from solar
16 technologies.

17 Such standards or rules shall be effective as regulations
18 immediately upon filing with the Office of Administrative Law and
19 shall be effective for a period not to exceed 18 months, and may,
20 thereafter, be amended, adopted or readopted by the board in
21 accordance with the provisions of the “Administrative Procedure
22 Act.”

23 f. The board may assess, by written order and after notice and
24 opportunity for comment, a separate fee to cover the cost of
25 implementing and overseeing an emission disclosure system or
26 emission portfolio standard, which fee shall be assessed based on an
27 electric power supplier's or basic generation service provider's share
28 of the retail electricity supply market. The board shall not impose a
29 fee for the cost of implementing and overseeing a greenhouse gas
30 emissions portfolio standard adopted pursuant to paragraph (2) of
31 subsection c. of this section.

32 g. The board shall adopt, pursuant to the “Administrative
33 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
34 energy efficiency program in order to ensure investment in cost-
35 effective energy efficiency measures, ensure universal access to
36 energy efficiency measures, and serve the needs of low-income
37 communities that shall require each electric public utility to
38 implement energy efficiency measures that reduce electricity usage
39 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
40 Nothing in this subsection shall be construed to prevent an electric
41 public utility from meeting the requirements of this subsection by
42 contracting with another entity for the performance of the
43 requirements.

44 h. The board shall adopt, pursuant to the “Administrative
45 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
46 efficiency program in order to ensure investment in cost-effective
47 energy efficiency measures, ensure universal access to energy
48 efficiency measures, and serve the needs of low-income

1 communities that shall require each gas public utility to implement
2 energy efficiency measures that reduce natural gas usage in the
3 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
4 Nothing in this subsection shall be construed to prevent a gas public
5 utility from meeting the requirements of this subsection by
6 contracting with another entity for the performance of the
7 requirements.

8 i. After the board establishes a schedule of solar kilowatt-hour
9 sale or purchase requirements pursuant to paragraph (3) of
10 subsection d. of this section, the board may initiate subsequent
11 proceedings and adopt, after appropriate notice and opportunity for
12 public comment and public hearing, increased minimum solar
13 kilowatt-hour sale or purchase requirements, provided that the
14 board shall not reduce previously established minimum solar
15 kilowatt-hour sale or purchase requirements, or otherwise impose
16 constraints that reduce the requirements by any means.

17 j. The board shall determine an appropriate level of solar
18 alternative compliance payment, and permit each supplier or
19 provider to submit an SACP to comply with the solar electric
20 generation requirements of paragraph (3) of subsection d. of this
21 section. The value of the SACP for each Energy Year, for Energy
22 Years 2014 through 2033 per megawatt hour from solar electric
23 generation required pursuant to this section, shall be:

24

25	EY 2014	\$339
26	EY 2015	\$331
27	EY 2016	\$323
28	EY 2017	\$315
29	EY 2018	\$308
30	EY 2019	\$268
31	EY 2020	\$258
32	EY 2021	\$248
33	EY 2022	\$238
34	EY 2023	\$228
35	EY 2024	\$218
36	EY 2025	\$208
37	EY 2026	\$198
38	EY 2027	\$188
39	EY 2028	\$178
40	EY 2029	\$168
41	EY 2030	\$158
42	EY 2031	\$148
43	EY 2032	\$138
44	EY 2033	\$128.

45
46 The board may initiate subsequent proceedings and adopt, after
47 appropriate notice and opportunity for public comment and public
48 hearing, an increase in solar alternative compliance payments,

1 provided that the board shall not reduce previously established
2 levels of solar alternative compliance payments, nor shall the board
3 provide relief from the obligation of payment of the SACP by the
4 electric power suppliers or basic generation service providers in any
5 form. Any SACP payments collected shall be refunded directly to
6 the ratepayers by the electric public utilities.

7 k. The board may allow electric public utilities to offer long-
8 term contracts through a competitive process, direct electric public
9 utility investment and other means of financing, including but not
10 limited to loans, for the purchase of SRECs and the resale of SRECs
11 to suppliers or providers or others, provided that after such
12 contracts have been approved by the board, the board's approvals
13 shall not be modified by subsequent board orders. If the board
14 allows the offering of contracts pursuant to this subsection, the
15 board may establish a process, after hearing, and opportunity for
16 public comment, to provide that a designated segment of the
17 contracts approved pursuant to this subsection shall be contracts
18 involving solar electric power generation facility projects with a
19 capacity of up to 250 kilowatts.

20 l. The board shall implement its responsibilities under the
21 provisions of this section in such a manner as to:

22 (1) place greater reliance on competitive markets, with the
23 explicit goal of encouraging and ensuring the emergence of new
24 entrants that can foster innovations and price competition;

25 (2) maintain adequate regulatory authority over non-competitive
26 public utility services;

27 (3) consider alternative forms of regulation in order to address
28 changes in the technology and structure of electric public utilities;

29 (4) promote energy efficiency and Class I renewable energy
30 market development, taking into consideration environmental
31 benefits and market barriers;

32 (5) make energy services more affordable for low and moderate
33 income customers;

34 (6) attempt to transform the renewable energy market into one
35 that can move forward without subsidies from the State or public
36 utilities;

37 (7) achieve the goals put forth under the renewable energy
38 portfolio standards;

39 (8) promote the lowest cost to ratepayers; and

40 (9) allow all market segments to participate.

41 m. The board shall ensure the availability of financial incentives
42 under its jurisdiction, including, but not limited to, long-term
43 contracts, loans, SRECs, or other financial support, to ensure
44 market diversity, competition, and appropriate coverage across all
45 ratepayer segments, including, but not limited to, residential,
46 commercial, industrial, non-profit, farms, schools, and public entity
47 customers.

1 n. For projects which are owned, or directly invested in, by a
2 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
3 98.1), the board shall determine the number of SRECs with which
4 such projects shall be credited; and in determining such number the
5 board shall ensure that the market for SRECs does not detrimentally
6 affect the development of non-utility solar projects and shall
7 consider how its determination may impact the ratepayers.

8 o. The board, in consultation with the Department of
9 Environmental Protection, electric public utilities, the Division of
10 Rate Counsel in, but not of, the Department of the Treasury,
11 affected members of the solar energy industry, and relevant
12 stakeholders, shall periodically consider increasing the renewable
13 energy portfolio standards beyond the minimum amounts set forth
14 in subsection d. of this section, taking into account the cost impacts
15 and public benefits of such increases including, but not limited to:

16 (1) reductions in air pollution, water pollution, land disturbance,
17 and greenhouse gas emissions;

18 (2) reductions in peak demand for electricity and natural gas,
19 and the overall impact on the costs to customers of electricity and
20 natural gas;

21 (3) increases in renewable energy development, manufacturing,
22 investment, and job creation opportunities in this State; and

23 (4) reductions in State and national dependence on the use of
24 fossil fuels.

25 p. Class I RECs and ORECs shall be eligible for use in
26 renewable energy portfolio standards compliance in the energy year
27 in which they are generated, and for the following two energy years.
28 SRECs shall be eligible for use in renewable energy portfolio
29 standards compliance in the energy year in which they are
30 generated, and for the following four energy years.

31 q. (1) During the energy years of 2014, 2015, and 2016, a solar
32 electric power generation facility project that is not: (a) net
33 metered; (b) an on-site generation facility; (c) qualified for net
34 metering aggregation; or (d) certified as being located on a
35 brownfield, on an area of historic fill or on a properly closed
36 sanitary landfill facility, as provided pursuant to subsection t. of this
37 section may file an application with the board for approval of a
38 designation pursuant to this subsection that the facility is connected
39 to the distribution system. An application filed pursuant to this
40 subsection shall include a notice escrow of \$40,000 per megawatt of
41 the proposed capacity of the facility. The board shall approve the
42 designation if: the facility has filed a notice in writing with the
43 board applying for designation pursuant to this subsection, together
44 with the notice escrow; and the capacity of the facility, when added
45 to the capacity of other facilities that have been previously
46 approved for designation prior to the facility's filing under this
47 subsection, does not exceed 80 megawatts in the aggregate for each
48 year. The capacity of any one solar electric power supply project

1 approved pursuant to this subsection shall not exceed 10 megawatts.
2 No more than 90 days after its receipt of a completed application
3 for designation pursuant to this subsection, the board shall approve,
4 conditionally approve, or disapprove the application. The notice
5 escrow shall be reimbursed to the facility in full upon either
6 rejection by the board or the facility entering commercial operation,
7 or shall be forfeited to the State if the facility is designated pursuant
8 to this subsection but does not enter commercial operation pursuant
9 to paragraph (2) of this subsection.

10 (2) If the proposed solar electric power generation facility does
11 not commence commercial operations within two years following
12 the date of the designation by the board pursuant to this subsection,
13 the designation of the facility shall be deemed to be null and void,
14 and the facility shall not be considered connected to the distribution
15 system thereafter.

16 (3) Notwithstanding the provisions of paragraph (2) of this
17 subsection, a solar electric power generation facility project that as
18 of May 31, 2017 was designated as “connected to the distribution
19 system,” but failed to commence commercial operations as of that
20 date, shall maintain that designation if it commences commercial
21 operations by May 31, 2018.

22 r. (1) For all proposed solar electric power generation facility
23 projects except for those solar electric power generation facility
24 projects approved pursuant to subsection q. of this section, and for
25 all projects proposed in energy year 2019 and energy year 2020, the
26 board may approve projects for up to 50 megawatts annually in
27 auctioned capacity in two auctions per year as long as the board is
28 accepting applications. If the board approves projects for less than
29 50 megawatts in energy year 2019 or less than 50 megawatts in
30 energy year 2020, the difference in each year shall be carried over
31 into the successive energy year until 100 megawatts of auctioned
32 capacity has been approved by the board pursuant to this
33 subsection. A proposed solar electric power generation facility that
34 is neither net metered nor an on-site generation facility, may be
35 considered “connected to the distribution system” only upon
36 designation as such by the board, after notice to the public and
37 opportunity for public comment or hearing. A proposed solar
38 power electric generation facility seeking board designation as
39 “connected to the distribution system” shall submit an application
40 to the board that includes for the proposed facility: the nameplate
41 capacity; the estimated energy and number of SRECs to be
42 produced and sold per year; the estimated annual rate impact on
43 ratepayers; the estimated capacity of the generator as defined by
44 PJM for sale in the PJM capacity market; the point of
45 interconnection; the total project acreage and location; the current
46 land use designation of the property; the type of solar technology to
47 be used; and such other information as the board shall require.

1 (2) The board shall approve the designation of the proposed
2 solar power electric generation facility as “connected to the
3 distribution system” if the board determines that:

4 (a) the SRECs forecasted to be produced by the facility do not
5 have a detrimental impact on the SREC market or on the
6 appropriate development of solar power in the State;

7 (b) the approval of the designation of the proposed facility
8 would not significantly impact the preservation of open space in
9 this State;

10 (c) the impact of the designation on electric rates and economic
11 development is beneficial; and

12 (d) there will be no impingement on the ability of an electric
13 public utility to maintain its property and equipment in such a
14 condition as to enable it to provide safe, adequate, and proper
15 service to each of its customers.

16 (3) The board shall act within 90 days of its receipt of a
17 completed application for designation of a solar power electric
18 generation facility as “connected to the distribution system,” to
19 either approve, conditionally approve, or disapprove the
20 application. If the proposed solar electric power generation facility
21 does not commence commercial operations within two years
22 following the date of the designation by the board pursuant to this
23 subsection, the designation of the facility as “connected to the
24 distribution system” shall be deemed to be null and void, and the
25 facility shall thereafter be considered not “connected to the
26 distribution system.”

27 s. In addition to any other requirements of P.L.1999, c.23 or
28 any other law, rule, regulation or order, a solar electric power
29 generation facility that is not net metered or an on-site generation
30 facility and which is located on land that has been actively devoted
31 to agricultural or horticultural use that is valued, assessed, and
32 taxed pursuant to the “Farmland Assessment Act of 1964,”
33 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
34 period prior to the effective date of P.L.2012, c.24, shall only be
35 considered “connected to the distribution system” if (1) the board
36 approves the facility's designation pursuant to subsection q. of this
37 section; or (2) (a) PJM issued a System Impact Study for the facility
38 on or before June 30, 2011, (b) the facility files a notice with the
39 board within 60 days of the effective date of P.L.2012, c.24,
40 indicating its intent to qualify under this subsection, and (c) the
41 facility has been approved as “connected to the distribution system”
42 by the board. Nothing in this subsection shall limit the board's
43 authority concerning the review and oversight of facilities, unless
44 such facilities are exempt from such review as a result of having
45 been approved pursuant to subsection q. of this section.

46 t. (1) No more than 180 days after the date of enactment of
47 P.L.2012, c.24, the board shall, in consultation with the Department
48 of Environmental Protection and the New Jersey Economic

1 Development Authority, and, after notice and opportunity for public
2 comment and public hearing, complete a proceeding to establish a
3 program to provide SRECs to owners of solar electric power
4 generation facility projects certified by the board, in consultation
5 with the Department of Environmental Protection, as being located
6 on a brownfield, on an area of historic fill or on a properly closed
7 sanitary landfill facility, including those owned or operated by an
8 electric public utility and approved pursuant to section 13 of
9 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
10 subsection shall be considered “connected to the distribution
11 system”, shall not require such designation by the board, and shall
12 not be subject to board review required pursuant to subsections q.
13 and r. of this section. Notwithstanding the provisions of section 3
14 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
15 order to the contrary, for projects certified under this subsection, the
16 board shall establish a financial incentive that is designed to
17 supplement the SRECs generated by the facility in order to cover
18 the additional cost of constructing and operating a solar electric
19 power generation facility on a brownfield, on an area of historic fill
20 or on a properly closed sanitary landfill facility. Any financial
21 benefit realized in relation to a project owned or operated by an
22 electric public utility and approved by the board pursuant to section
23 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
24 financial incentive established by the board pursuant to this
25 subsection, shall be credited to ratepayers. The issuance of SRECs
26 for all solar electric power generation facility projects pursuant to
27 this subsection shall be deemed “Board of Public Utilities financial
28 assistance” as provided under section 1 of P.L.2009, c.89 (C.48:2-
29 29.47).

30 (2) Notwithstanding the provisions of the “Spill Compensation
31 and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
32 other law, rule, regulation, or order to the contrary, the board, in
33 consultation with the Department of Environmental Protection, may
34 find that a person who operates a solar electric power generation
35 facility project that has commenced operation on or after the
36 effective date of P.L.2012, c.24, which project is certified by the
37 board, in consultation with the Department of Environmental
38 Protection pursuant to paragraph (1) of this subsection, as being
39 located on a brownfield for which a final remediation document has
40 been issued, on an area of historic fill or on a properly closed
41 sanitary landfill facility, which projects shall include, but not be
42 limited to projects located on a brownfield for which a final
43 remediation document has been issued, on an area of historic fill or
44 on a properly closed sanitary landfill facility owned or operated by
45 an electric public utility and approved pursuant to section 13 of
46 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
47 acquired on or after the effective date of P.L.2012, c.24 on which
48 such a solar electric power generation facility project is constructed

1 and operated, shall not be liable for cleanup and removal costs to
2 the Department of Environmental Protection or to any other person
3 for the discharge of a hazardous substance provided that:

4 (a) the person acquired or leased the real property after the
5 discharge of that hazardous substance at the real property;

6 (b) the person did not discharge the hazardous substance, is not
7 in any way responsible for the hazardous substance, and is not a
8 successor to the discharger or to any person in any way responsible
9 for the hazardous substance or to anyone liable for cleanup and
10 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
11 23.11g);

12 (c) the person, within 30 days after acquisition of the property,
13 gave notice of the discharge to the Department of Environmental
14 Protection in a manner the Department of Environmental Protection
15 prescribes;

16 (d) the person does not disrupt or change, without prior written
17 permission from the Department of Environmental Protection, any
18 engineering or institutional control that is part of a remedial action
19 for the contaminated site or any landfill closure or post-closure
20 requirement;

21 (e) the person does not exacerbate the contamination at the
22 property;

23 (f) the person does not interfere with any necessary remediation
24 of the property;

25 (g) the person complies with any regulations and any permit the
26 Department of Environmental Protection issues pursuant to section
27 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
28 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

29 (h) with respect to an area of historic fill, the person has
30 demonstrated pursuant to a preliminary assessment and site
31 investigation, that hazardous substances have not been discharged;
32 and

33 (i) with respect to a properly closed sanitary landfill facility, no
34 person who owns or controls the facility receives, has received, or
35 will receive, with respect to such facility, any funds from any post-
36 closure escrow account established pursuant to section 10 of
37 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
38 the facility.

39 Only the person who is liable to clean up and remove the
40 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
41 23.11g) and who does not have a defense to liability pursuant to
42 subsection d. of that section shall be liable for cleanup and removal
43 costs.

44 u. No more than 180 days after the date of enactment of
45 P.L.2012, c.24, the board shall complete a proceeding to establish a
46 registration program. The registration program shall require the
47 owners of solar electric power generation facility projects
48 connected to the distribution system to make periodic milestone

1 filings with the board in a manner and at such times as determined
2 by the board to provide full disclosure and transparency regarding
3 the overall level of development and construction activity of those
4 projects Statewide.

5 v. The issuance of SRECs for all solar electric power
6 generation facility projects pursuant to this section, for projects
7 connected to the distribution system with a capacity of one
8 megawatt or greater, shall be deemed “Board of Public Utilities
9 financial assistance” as provided pursuant to section 1 of P.L.2009,
10 c.89 (C.48:2-29.47).

11 w. No more than 270 days after the date of enactment of
12 P.L.2012, c.24, the board shall, after notice and opportunity for
13 public comment and public hearing, complete a proceeding to
14 consider whether to establish a program to provide, to owners of
15 solar electric power generation facility projects certified by the
16 board as being three megawatts or greater in capacity and being net
17 metered, including facilities which are owned or operated by an
18 electric public utility and approved by the board pursuant to section
19 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
20 designed to supplement the SRECs generated by the facility to
21 further the goal of improving the economic competitiveness of
22 commercial and industrial customers taking power from such
23 projects. If the board determines to establish such a program
24 pursuant to this subsection, the board may establish a financial
25 incentive to provide that the board shall issue one SREC for no less
26 than every 750 kilowatt-hours of solar energy generated by the
27 certified projects. Any financial benefit realized in relation to a
28 project owned or operated by an electric public utility and approved
29 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
30 98.1), as a result of the provisions of a financial incentive
31 established by the board pursuant to this subsection, shall be
32 credited to ratepayers.

33 x. Solar electric power generation facility projects that are
34 located on an existing or proposed commercial, retail, industrial,
35 municipal, professional, recreational, transit, commuter,
36 entertainment complex, multi-use, or mixed-use parking lot with a
37 capacity to park 350 or more vehicles where the area to be utilized
38 for the facility is paved, or an impervious surface may be owned or
39 operated by an electric public utility and may be approved by the
40 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).

41 y. (1) Notwithstanding any provision of this section, or any
42 rule or regulation adopted pursuant thereto, no later than one year
43 after the effective date of P.L. , c. (C.) (pending before the
44 Legislature as this bill), the board, in consultation with the
45 Department of Environmental Protection, shall adopt, pursuant to
46 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
47 et seq.) a carbon emissions portfolio standard that requires all
48 power sold to customers in the State by electric power suppliers and

1 basic generation service providers be derived from energy sources
2 that emit zero carbon by energy year 2050.

3 (2) The carbon emissions portfolio standard pursuant to
4 paragraph (1) of this subsection shall:

5 (a) establish a multi-year schedule, applicable to each electric
6 power supplier and basic generation service provider that provides
7 power to customers in this State, setting forth gradual emissions
8 reduction requirements to effectively transition to zero carbon
9 emissions by energy year 2050;

10 (b) include provisions as may be necessary to mitigate leakage,
11 or to transfer any customer to a basic generation service provider or
12 electric power supplier that meets the carbon emissions portfolio
13 standard;

14 (c) exempt the provision of basic generation service pursuant to
15 a basic generation service purchase and sale agreement effective
16 prior to the date of the adoption of the rules and regulations; and

17 (d) include any additional rules or regulations consistent with the
18 board's and the Department of Environmental Protection's existing
19 authority that may be necessary for the implementation of this
20 subsection.

21 (cf: P.L.2018, c.17, s.2)

22

23 2. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill would require the Board of Public Utilities (BPU) to
29 adopt an emissions portfolio standard that would eliminate carbon
30 emissions from the power generation sector by 2050.

31 The BPU, in consultation with the Department of Environmental
32 Protection (DEP), would be required to adopt the carbon emissions
33 portfolio standard no later than one year after the effective date of
34 the bill. The carbon emissions portfolio standard would include: (1)
35 a multi-year schedule, with gradual emissions reduction
36 requirements to require that all power sold to customers in the State
37 by electric power suppliers and basic generation service providers
38 be derived from sources that have zero carbon emissions; (2)
39 provisions to mitigate leakage or to transfer any customer to a basic
40 generation service provider or electric power supplier that meets the
41 carbon emissions portfolio standard; (3) an exemption for basic
42 generation service pursuant to a purchase and sale agreement
43 effective prior to the date of the adoption of the rules and
44 regulations; (4) any additional rules or regulations consistent with
45 the board's and the DEP's existing authority that may be necessary
46 for the implementation of the bill.